



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 27, 1996

Mr. Ernest Connor
General Manager-Port Director
Galveston Wharves
Port of Galveston
P.O. Box 328
Galveston, Texas 77553

OR96-2267

Dear Mr. Connor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102030.

The Board of Trustees of the Galveston Wharves (the "board") received a request for the following information:

- minutes from the July of 96 meeting
- information regarding the trip to Mexico in July of 96 including: who went, all expenses, and what the Galveston Wharves paid
- financial information including where the Galveston Wharves receives its budget, what board or rules govern the expenditure of money, who owns the Galveston Wharves, etc.
- information regarding the Canada trip including who is going and what [sic] the amount of money being paid by the Galveston Wharves.

For various reasons you object to releasing the requested information. You contend that the information responsive to categories 1 and 2 of the request is excepted from disclosure pursuant to sections 552.101 and 552.104 of the Government Code. You claim that category 3 of the request is so vague as to prevent the board from determining precisely what information the requestor is seeking. You state that the board has no documents responsive to category 4 of the request, and you ask whether the board is exempt from responding to this part of the request. Where appropriate, you have submitted the requested information to this office for review.

In response to category 1 of the request, you have released the minutes of the July 1996 open session to the requestor. However, you believe that the minutes of the closed session are excepted from disclosure under section 552.101 of the Government Code. Section 552.101 of the Government Code excepts from disclosure information deemed confidential by law. Section 551.104(c) of the Government Code provides that "[t]he certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3)." In other words, section 551.104(c) deems the certified agenda of an executive session confidential. See Open Records Decision No. 495 (1988). Thus, the minutes of the closed session held in July 1996 are excepted from disclosure under section 552.101 of the Government Code as information made confidential by law.

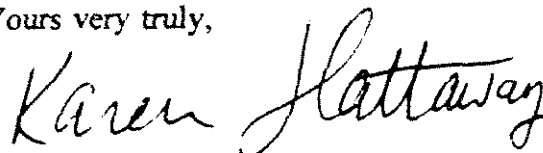
You next contend that the information about the trip to Mexico is "confidential business information" that is excepted from disclosure under section 552.104 of the Government Code. Section 552.104 of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." You inform us that the "nature and purpose of this trip was confidential and the information requested . . . is highly sensitive business information." However, it is not apparent to us and you have not explained how the information that you have submitted to this office reveals anything about the nature or purpose of the trip. Thus, we conclude that the information is not excepted from disclosure under section 552.104 and must be released to the requestor.

As for the request for "financial information," you state that this category of the request is "so vague and broad as to constitute a request for nearly all documents maintained by the Wharves since its inception in 1940." You ask us to determine whether the board must respond to this category of the request. A governmental body must make a good faith effort to relate a request for information to the information which it holds. Open Records Decision No. 561 (1990). However, when a governmental body is presented with a broad or vague request for information rather than a request for specific records, it should advise the requestor of the types of information available so that he may narrow his request. Open Records Decision No. 563 (1990). Although the board need not respond to this category of the request until it is clarified, the board should assist the requestor in narrowing his request.

Finally, you state that the board has no documents that are responsive to the inquiry about the trip to Canada, and you ask whether the board is thus exempt from responding to this category of the request. The requestor is apparently requesting information about a trip that had not taken place at the time he made his request. Although you state that no documents responsive to this category of the request exist, you have submitted to this office information relating to a conference in Canada. The board must release this information to the requestor, if the board had this information at the time that it received the request for information. Open Records Decision No. 605 (1992). We note that a governmental body is not required to create or obtain new information in order to comply with a request for information. Open Records Decision No. 534 (1989). Therefore, the board is not obligated to create or obtain additional documents in order to respond to the request.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Karen Hattaway". The signature is written in a cursive, flowing style.

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 102030

Enclosures: Submitted documents

cc: Mr. E.L. (Ted) O'Rourke
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(w/o enclosures)